

EXHIBIT D

1 yet and/or -- I didn't make the presentation. Colonel
2 McAllister did because I had nothing to do with the
3 formation of the budget. Somebody could probably give
4 you that date when the budget presentation was made for
5 public safety.

6 But my understanding, as time went on, was
7 that the number of positions in public safety is a factor
8 in determining whether or not sufficient monies are
9 placed into the personnel line, and that the numbers are
10 only critical leading up to the passage of the budget.
11 And once the budget passes -- and I guess this is county
12 wide because, again, I still have trouble understanding
13 this way of doing business -- but that once the budget
14 passes, the numbers become immaterial and it's the money
15 that you have. And it's based upon the money as to
16 whether or not you can over fill, over promote, whatever
17 you want to do.

18 As long as you have the money within the
19 department, you are permitted to make those kind of
20 adjustments at any point in the budget year, which is
21 what I understand occurred in December. In the fiscal
22 year, '05, budget, there were 36 sergeants. And the
23 colonel decided to go to 38 and promoted two additional
24 sergeants in December of '04. The budget that passed for



1 '06 included 38 sergeants.

2 And by the time June 29th arrived and I
3 issued this memorandum, I had heard from many, many
4 sources, both internal and external, that the most
5 critical need in the police department, at that point,
6 was for patrol officers. And this was given the fact
7 that we had 12 vacancies at that point in time. We were
8 not going to start in academy until, at the earliest,
9 November or December. And that eventually got pushed off
10 until March. And that we could ill afford to lose more
11 patrol officers.

12 Throughout my first two or three months, the
13 CAO and I discussed this. And my recommendation to him
14 was that, at least for the time-being, we not fill the
15 37th and 38th position. And we were in the process of
16 attempting to secure a contract to follow up on the
17 Southern Institute Study that had been conducted in 2000.
18 It was our intent, as part of that process, to have
19 whoever won the contract look at the authorized strength
20 of the department and the strength within each of the
21 ranks in the department. And that was the second reason
22 that I didn't feel it was appropriate to move forward
23 with the two additional positions until we had that
24 report in hand.



1 1st of the fiscal year. And, at some point, it came
2 around to me. And I said that is my intention.

3 Q. And you communicated that intention?

4 A. I did.

5 Q. To the people who were --

6 A. In attendance.

7 Q. And they included those who stood to be promoted?

8 A. That's correct.

9 Q. So you made that statement to them that that was
10 your intention?

11 A. And that was in mid May. Exact date, I can't
12 remember now.

13 Q. And then it was on June 29 by way of memo that
14 you decided not to make those promotions?

15 A. After consulting with the CAO and receiving his
16 concurrence, I issued this memo saying that we would not.
17 I met with those same parties -- it wasn't everyone that
18 attended the first meeting, but I met with the same group
19 of officers in my office. I believe it was that
20 afternoon. I apologized for my statement in May. I told
21 them that I had learned more information since then, that
22 it had changed the backdrop against which I had
23 originally intended to make those promotions and that, at
24 this point, would not be move forward with the additional



1 And I made that statement because, in my
2 experience with the Wilmington Police Department, in all
3 the training that I had as a sergeant and as a manager,
4 you always take responsibility for the bad news and you
5 always share the good news. And I didn't want to leave
6 any doubt in the officer's mind in that meeting that this
7 was something that the colonel had embraced.

8 Having said that, the chief administrative
9 officer was fully aware of the memo that was going to be
10 sent out. And I say that because when I met with him on
11 the 29th, before or after we had this discussion with
12 Allison Levine, I previewed the draft language I was
13 going to use in this memo. And he thought that it should
14 be shorter and more succinct. And I made those changes
15 before issuing that memo that afternoon.

16 Q. I'm sorry. What does this have to do with
17 Allison Levine? I missed that.

18 A. I'm just saying that it occurred the same day on
19 the 29th. So at some point as we are trying to work
20 through that, we discussed the memorandum that I was
21 going to issue on the sergeants' positions. He looked at
22 it, offered some amendments, and I incorporated those
23 amendments into the memo that was handed to Colonel
24 McAllister later that day.



1 Q. As I understand it, I think you have so
2 testified -- and correct me if I'm wrong -- when you met
3 with these officers who were to find out that they were
4 not going to be promoted, at least at that point, you
5 told them that it was your decision and your decision
6 only?

7 A. That's correct. The message I was trying to
8 impart was that this was coming from me and not the
9 colonel. I didn't want the colonel to, in any way, be
10 blamed for this. He fought hard and vigorously to
11 preserve these two positions. And it was only after what
12 I learned between joining the county April the 18th and
13 my recommendation to the CAO on June the 29th that we not
14 proceed with those two promotions, that we made the final
15 decision. I didn't want any of the officers thinking
16 that it was their chief undercutting them.

17 Q. As I think I understand, you met with the CAO
18 before you issued this memo. You said he helped edit the
19 memo for you?

20 A. That's correct.

21 Q. And so that decision was made on June 29th; it
22 was not made before that?

23 A. That's correct.

24 Q. Is there any reason why Allison Levine knew about



1 One of the other factors that I was
2 struggling with at that point was, probably the third or
3 fourth week in, I'm told we have a \$500,000 deficit in
4 the department of public safety. And I told the colonel
5 that I was having some real problems with promoting the
6 37th and 38th sergeant until after the 1st of the fiscal
7 year because there wasn't money for it in the budget. We
8 were broke. We had to have a special appropriation of
9 about 500, \$600,000 to get through the end of the fiscal
10 year.

11 He argued that it wasn't that much more
12 money. And I said I understand that. It's probably only
13 \$1,500, \$2,300 at most per officer. But it's the
14 principle of the thing. We are already \$500,000 in the
15 hole. I can't, in good conscience, promote the 37th and
16 38th sergeant until after the 1st of the fiscal year.

17 At that point, he indicated that we would
18 just wait and do all three after the 1st of the fiscal
19 year. That happens prior to the meeting with the FOP
20 members on about the 17th or 18th, which is when we tell
21 them that the promotions will occur after the 1st of the
22 fiscal year.

23 Q. Now, isn't it fair to say that the county was
24 paying acting sergeants during this time period?



1 to make sure that people were getting opportunity to move
2 about in the department, to gain experience within
3 specialized divisions and that type of thing. So I was
4 interested in and, at times, we would review with the CAO
5 those kind of personnel moves.

6 Q. It's your testimony that the chief of police runs
7 the New Castle County Police Department?

8 A. Yes.

9 Q. And in that capacity, does transfers, promotions,
10 that type of thing?

11 A. Yes.

12 Q. Troop assignments?

13 A. The functions that were prescribed in Title 9.
14 Now, that was the scheme up until November when an
15 ordinance was passed that delineated the responsibilities
16 and authority of the director of public safety. So all
17 that changed somewhat.

18 Prior to that, I knew that any power or
19 authority or responsibility that I had flowed through the
20 CAO. And that's one of the reasons that we were in such
21 close contact on issues, that if there was something
22 critical that I needed to do, particularly in police.
23 The same issues did not present themselves in paramedic,
24 911 or in OEM because there were not these Title 9

